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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,846	08/19/2003	Kazushi Nakatsukasa	YANO11.001CPI	4921
20995	7590	10/14/2004		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER TADESSE, YEWEBDAR T	
			ART UNIT 1734	PAPER NUMBER

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,846	NAKATSUKASA, KAZUSHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yewebdar T Tadesse	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-15 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 7 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/19/2003</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Specification*

1. Claim 14 is objected to because of the following informalities: in the claim, line 06 the word "plate" is misspelled. Appropriate correction is required.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-6, 8-15 and 17-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. US 6,631,691 in view of Kohno et al (US 6,048,571) and Mattson (US 4,934,602). A device for gel coating seeds having a *single* nozzle, a gallery and a passage is taught in the claimed invention of US'691. Basically, US'691 claims the invention as claimed in the instant application except a plurality of nozzles, galleries, passages and a lower nozzle casing including a bottom plate and a replaceable nozzle

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sleeve having inner and outer members, however apparatus for coating seeds comprising a plurality of nozzles and passages are well known in the art; for instance – Kohno et al discloses (see Figs 6 and 13) a plurality of end nozzles 43 and gel passages 60b to simultaneously coat a plurality of seeds. It would have been obvious to one of ordinary skill in the art at the time the invention to include a plurality of nozzles and passages in US'691 to facilitate the seed coating process by coating a plurality of seeds at the same time. As to a plurality of galleries, when the nozzle and passage of US'691 are duplicated for multiple effect, a number of galleries will eventually be formed at the joint surfaces of the plurality of nozzle casings. Regarding the nozzle sleeve and a bottom plate for the nozzle casing, it is well known in the art to include nozzle sleeve and other nozzle fittings for maintenance purpose; for instance – Mattson discloses (see column 3, lines 22-31) a fluid nozzle, having replaceable sleeve member and associated fittings and attachments, removed from the barrel shell for cleaning purpose. It would have been obvious to one of ordinary skill in the art at the time the invention to include a nozzle casing having nozzle sleeve and a plate in US'691 to clean leak developing in the nozzle as taught by Mattson. As to positioning the nozzle sleeve members in relation to the nozzle or shaping the galleries as claimed, it is within the arts of the invention. One skilled in the art would position the nozzle in relation to the nozzle sleeve members or shape the galleries as desired, for instance to conveniently change parts of the nozzle assemblies for the purpose of repair and maintenance operations of the coating apparatus.

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4. Claims 6 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: there is no reference in the prior art search that disclosed, taught or suggested a device for gel-coating seeds comprising, among others, passages in the lower nozzle casings and wherein each passage comprises a plurality of channels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*YTT*  
YTT



**CHRIS FIORILLA**  
**SUPERVISORY PATENT EXAMINER**

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